

1 C. In order to provide quality assurance and maintain
2 quality control regarding all samples collected pursuant to this
3 Order, Respondents shall:

4 1. Use only laboratories which have a documented quality
5 assurance program that complies with EPA guidance document QAMS-
6 005/80.

7 2. Ensure that all contracts with laboratories utilized
8 by Respondents for analysis of samples taken pursuant to this
9 Order:

10 a. provide for access of EPA personnel and EPA-
11 authorized representatives, and

12 b. allow EPA personnel and EPA's authorized
13 representatives to consult with the personnel that performed
14 analyses for Respondents.

15 3. Ensure that all laboratories utilized by Respondents
16 for analysis of samples taken pursuant to this Order perform all
17 analyses in accordance with the approved QA Project Plan.

18 4. Ensure that all laboratories utilized by Respondents
19 for analysis of samples taken pursuant to this Order participate
20 in an EPA or EPA-equivalent Laboratory Water Supply Performance
21 Evaluation Study. As part of the QA program, Respondents must
22 use a laboratory that, upon request by EPA, shall perform, not no
23 expense to EPA, analyses of samples provided by EPA to
24 demonstrate the quality of each laboratory's data. If a
25 laboratory used by Respondents is certified for drinking water
26 analyses by the California Department of Health Services,
27 Respondents shall request that the laboratory include a notation
28 of the valid certification on the title page of the analyses

1 results report.

2 5. Ensure that all laboratories utilized by Respondents
3 for analysis of samples taken pursuant to this Order:

4 a. maintain, and provide upon request, the records
5 outlined in U.S. EPA Region IX, *Laboratory Documentation Require-*
6 *ments for Data Validation* (January 1990), and

7 b. perform all data validation specified in the QA
8 Project Plan in accordance with *Laboratory Data Validation*
9 *Functional Guidelines for Evaluating Inorganic Analysis, Draft*
10 *(July 1988)*, and the *Laboratory Data Validation Functional Guide-*
11 *lines for Evaluating Organic Analysis, Draft* (December 1990,
12 revised June 1991) or any amended or superseding version of these
13 documents provided by EPA to Respondents.

14 6. Require by contract and use their best efforts to
15 ensure that samples taken on Respondents' behalf for purposes of
16 implementing this Order are retained and disposed of by
17 analytical laboratories in accordance with EPA's customary
18 contract procedures for sample retention, as outlined in the
19 *Contract Laboratory Project Statement of Work for Organics* (March
20 1990, revised August 1991), and *Contract Laboratory Project*
21 *Statement of Work for Inorganics* (March 1990, revised September
22 1991) or any amended or superseding versions of these documents
23 provided by EPA to Respondents.

24 **XVIII. COMPLIANCE WITH APPLICABLE LAWS**

25 A. The Work performed by Respondents pursuant to this Order
26 shall comply with the applicable or relevant and appropriate
27 requirements ("ARARs") identified in the ROD, ESD and Subpart F
28 of Section VII of the Consent Decree, except insofar as the ESD

1 or the Consent Decree explicitly state that earlier-identified
2 ARARs are superseded by the ESD or the Consent Decree. All
3 activities taken by Respondents pursuant to this Order shall also
4 be performed in accordance with the requirements of all
5 applicable federal, state, and local laws, regulations, and
6 permitting requirements; provided that, as set forth in Section
7 121(e) of CERCLA, 42 U.S.C. § 9621(e), and the NCP, no permit
8 shall be required for any portion of the Work conducted entirely
9 onsite. Where any portion of the Work requires a federal or
10 state permit or approval, Respondents shall submit timely
11 applications and take all other actions necessary to obtain and
12 to comply with all such permits or approvals.

13 B. This Order is not, and shall not be construed to be, a
14 permit issued pursuant to any federal or state statute or regula-
15 tion.

16 C. Nothing in this Order shall be deemed to constitute a
17 pre-authorization of a CERCLA claim within the meaning of Sec-
18 tions 111 or 112 of CERCLA, 42 U.S.C. §§ 9611 or 9612.

19 **XIX. REMEDIAL PROJECT MANAGER AND PROJECT COORDINATOR**

20 A. All communications, whether written or oral, from any
21 Respondent to EPA shall be directed to EPA's Remedial Project
22 Manager ("RPM"); provided that all communication from counsel for
23 Respondents shall be directed to counsel representing EPA.
24 Respondents shall submit to EPA three (3) copies of all
25 deliverables, plans, reports, and other submittals required to be
26 submitted by this Order, and shall send these documents by
27 overnight mail or certified mail, return receipt requested.
28

1 B. EPA's RPM is:

2 Colette Kostelec
3 San Fernando Valley Superfund Site
4 Hazardous Waste Management Division
5 U.S. Environmental Protection Agency, Region IX
6 75 Hawthorne Street (H-6-4)
7 San Francisco, CA 94105
8 (415) 744-2253

9 C. EPA has the unreviewable right to change its RPM. If EPA
10 changes its RPM, EPA will inform Respondents in writing of the
11 name, address, and telephone number of the new RPM.

12 D. EPA's RPM shall have the authority lawfully vested in a
13 Remedial Project Manager and On-Scene Coordinator by the NCP, 40
14 C.F.R. Part 300 et seq., including such authority as may be added
15 by amendments to 40 C.F.R. Part 300. EPA's RPM shall have the
16 authority, consistent with the NCP, to halt any work required by
17 this Order, and to take any necessary response action.

18 E. Within ten (10) days after the effective date of this
19 Order, Respondents shall submit to EPA in writing the name,
20 address, telephone number and qualifications of their proposed
21 Project Coordinator, including the primary support entities and
22 staff, proposed to be used in carrying out Work under this Order,
23 for EPA review and approval.

24 F. If EPA disapproves of the selection of the Project
25 Coordinator, Respondents shall submit to EPA within thirty (30)
26 days after receipt of EPA's disapproval of the Project Coordina-
27 tor previously selected, a list of at least three Project
28 Coordinators, their addresses, telephone numbers, and qualifica-
tions, including primary support entities and staff, that would
be acceptable to Respondents. EPA will thereafter provide notice

1 to Respondents of the names of the Project Coordinators on this
2 list that are acceptable to EPA (if any). Respondents may then
3 select any approved Project Coordinator from that list and shall
4 notify EPA of the name of the Project Coordinator selected within
5 fifteen (15) days of EPA's designation of acceptable Project
6 Coordinators.

7 G. If at any time Respondents wish to change their Project
8 Coordinator, at least ten (10) days prior to the date of the
9 desired change Respondents shall provide to EPA for review and
10 approval the name and qualifications of the proposed Project
11 Coordinator and shall obtain approval from EPA before the new
12 Project Coordinator undertakes any responsibilities under this
13 Order.

14 H. The Project Coordinator shall be responsible for oversee-
15 ing Respondents' implementation of the Work required by this
16 Order and for coordinating communication between EPA and
17 Respondents.

18 XX. SITE ACCESS AND NOTIFICATION

19 A. Access to Areas Not Owned or Controlled by Respondents

20 1. To the extent that the Site or other areas where Work
21 is to be performed under this Order are presently owned or
22 controlled by parties other than Respondents and to the extent
23 that access to or easements over such property is required for
24 the proper and complete performance of this Order, Respondents
25 shall use their best efforts to obtain from the owners or those
26 person who have control over the property, including lessees,
27 access agreements within thirty (30) days of the effective date
28 of this Order. For purposes of this Section, "best efforts"

1 includes but is not limited to seeking judicial assistance and
2 the payment of reasonable sums of money as consideration for
3 access.

4 2. Any access agreements to be obtained by Respondents
5 shall provide access to EPA, its contractors and other represen-
6 tatives, and to Respondents and their contractor(s) and
7 authorized representatives, and such agreements shall specify
8 that Respondents are not EPA's representatives with respect to
9 liability associated with Site activities. Respondents shall
10 provide copies of any access agreements obtained pursuant to this
11 Section to EPA within seven (7) days of execution of the
12 agreement.

13 3. If the required access agreements are not obtained
14 within the thirty (30) day period specified above, Respondents
15 shall notify EPA within five (5) days after the expiration of
16 that time period regarding both the lack of and efforts to obtain
17 such agreements. Subject to the United States' non-reviewable
18 discretion, the United States may direct Respondents to continue
19 to use best efforts to obtain access, may use its legal
20 authorities to obtain access for the Respondents, may perform the
21 Work in the areas at issue with EPA employees or EPA authorized
22 representatives, and may modify, amend or terminate the Order.
23 If the United States incurs costs related to obtaining access in
24 areas to which Respondents were unable to obtain access,
25 Respondents shall be liable for all costs incurred by EPA,
26 including but not limited to attorneys' fees and other legal
27 costs.

28 4. In the event that EPA, or its authorized

1 representatives, performs Work in areas to which Respondents were
2 unable to gain access, and EPA does not modify, amend or
3 terminate the Order, Respondents shall perform all other Work not
4 requiring access to that particular area. Respondents shall
5 integrate the results of any such tasks undertaken by EPA or its
6 authorized representatives into its reports and deliverables.

7 B. Access to Areas Owned or Controlled by Respondents

8 1. Respondents or any of their agents or representatives
9 shall allow EPA and its authorized representatives to enter and
10 freely move about all property which they own or control at the
11 Site and off-Site areas subject to or affected by the Work under
12 this Order or where documents required to be prepared or
13 maintained by this Order are located, for the purposes of:

14 a. inspecting conditions, activities and the results of
15 activities related to the Site;

16 b. inspecting and copying any records, files, photo-
17 graphs, documents, sampling and monitoring data, contracts,
18 operating logs, and other documents or writings related to Site;

19 c. reviewing the progress of the Respondents in
20 carrying out the terms of this Order;

21 d. conducting tests as EPA or its authorized
22 representatives deem necessary;

23 e. using a camera, sound recording device or other
24 documentary type equipment;

25 f. and verifying the data submitted to EPA by
26 Respondents.

27 2. Under the provisions of Section 104(e) of CERCLA, 42
28 U.S.C. § 9604(e), EPA explicitly reserves the right to observe

1 the Work of Respondents as it is performed. EPA reserves, for
2 itself and its authorized representatives, the right to take
3 splits or duplicates of any samples obtained by any Respondent or
4 anyone acting on any Respondent's behalf in the implementation of
5 the Work. EPA and its authorized representatives shall also have
6 the right to take any other samples that EPA or its authorized
7 representatives deem necessary.

8 C. Sampling and Project Notification

9 1. Respondents shall notify EPA not less than fourteen
10 (14) days in advance of any sample collection activity related to
11 the Work. Respondents shall notify EPA not less than fourteen
12 (14) days in advance of any disposal of any such sample, and EPA
13 shall have the opportunity to take possession of all or a portion
14 of such sample. Respondents shall notify EPA at least seven (7)
15 days in advance of any changes in the sampling schedule, if
16 possible. If changes in any scheduled sampling are required
17 within seven (7) days of the scheduled sampling, Respondents
18 shall notify EPA orally at least forty-eight (48) hours prior to
19 the new date of any such sampling.

20 2. Each Respondent shall notify EPA no less than thirty
21 (30) days in advance of commencing any project other than the
22 Work that may affect implementation of the interim remedy for the
23 Site or produce data or information that may affect an evaluation
24 of the remedy, including but not limited to placement of any
25 groundwater monitoring wells in the vicinity of the Site.

26 3. Nothing in this Order shall be interpreted as limiting
27 or affecting any right of entry or inspection authority EPA has
28 pursuant to law.

1 **XXI. DOCUMENT AVAILABILITY AND RECORD PRESERVATION**

2 **A. Document Availability**

3 1. Respondents shall provide to EPA upon request clear
4 and legible copies, as well as access to the original, of all
5 records, documents and information (other than documents or
6 information privileged under the attorney-client privilege or
7 work product doctrine) within their possession and/or control or
8 that of its contractors or agents relating to activities at the
9 Site or to the implementation of this Order, including but not
10 limited to sampling, analysis, chain-of-custody records,
11 manifests, drafts, trucking logs, receipts, reports, sample
12 traffic routing, notes and correspondence. Respondents shall
13 also make available to EPA for purposes of investigation,
14 information gathering, or testimony, its employees, agents or
15 representatives with knowledge of relevant facts concerning the
16 performance of the Work.

17 2. Respondents may assert a claim of business
18 confidentiality covering part of all of the information submitted
19 to EPA pursuant to this Order under 40 C.F.R. § 2.203, provided
20 such claim is not inconsistent with Section 104(e)(7) of CERCLA,
21 42 U.S.C. § 9604(e)(7), or other provisions of law. This claim
22 shall be asserted in the manner described by 40 C.F.R. § 2.203(b)
23 and substantiated by Respondents at the time the claim is made.
24 Information determined to be confidential by EPA will be given
25 the protection provided by CERCLA Section 104(e)(7), 42 U.S.C. §
26 9604(e)(7). If no such claim accompanies the information when it
27 is submitted to EPA, it may be made available to the public by
28 EPA without further notice to Respondents. Respondents shall not

1 assert confidentiality claims with respect to any data related to
2 Site conditions, sampling, or monitoring (including but not
3 limited to hydrogeological or chemical data and groundwater
4 monitoring data) or any other information covered by CERCLA
5 Section 104(e)(7)(F), 42 U.S.C. § 9604(e)(7)(F).

6 3. Respondents shall maintain for the period during which
7 this Order is in effect, an index of any materials, records, or
8 documents relating to activities at the Site or to the implemen-
9 tation of this Order, that Respondents claim contain confidential
10 business information and which EPA has requested. Respondents
11 shall routinely update this index at least every six months. The
12 index shall contain, for each item, the date, author, addressee,
13 and subject of the item. Upon a written request from EPA,
14 Respondents shall submit a copy of the most recent index to EPA.

15 4. Respondents shall maintain for the period during which
16 this Order is in effect, an index of any materials, records, or
17 documents relating to activities at the Site or to the implemen-
18 tation of this Order, that Respondents claim are covered by the
19 attorney work product doctrine or the attorney client privilege
20 and which fall within any document request made by EPA pursuant
21 to this Order. Respondents shall routinely update this index at
22 least every six months. The index shall contain, for each item,
23 the date, author, addressee, and subject of the item. Upon a
24 written request from EPA, Respondents shall submit a copy of the
25 most recent index to EPA.

26 B. Record Preservation

27 1. Within sixty (60) days after the effective date of
28 this Order, each Respondent shall submit a written certification

1 to EPA's RPM, signed by a responsible corporate official, or in
2 the case of the Antonini Family Trust, the trustee, stating
3 whether or not Respondent has altered, mutilated, discarded,
4 destroyed, or otherwise disposed of, since notification of
5 potential liability by the United States or the State, any
6 records, documents, or other information relating to: (i) its
7 potential liability under CERCLA, or (ii) its use of or disposal
8 of hazardous substances with regard to the Site. This
9 certification shall also state that the trustee or responsible
10 corporate official has conducted a thorough investigation of that
11 Respondent's officers, directors, employees, agents, contractors,
12 subcontractors, consultants or other persons having knowledge of
13 such information. Each Respondent shall not alter, mutilate,
14 discard, destroy, or otherwise dispose of any such records,
15 documents, or other information without prior EPA approval. If
16 EPA requests any or all of these records, documents or other
17 information, the applicable Respondent shall provide clear and
18 legible copies, as well as access to the original, of the
19 records, documents or other information (other than documents or
20 information privileged under the attorney-client privilege or
21 work product doctrine) to EPA.

22 C. Each Respondent shall provide to EPA, upon request, clear
23 and legible copies, as well as access to the originals, of any
24 and all documents and information within its possession or
25 control or in the possession or control of any of its divisions,
26 employees, agents, accountants, contractors, subcontractors or
27 attorneys (other than documents or information privileged under
28 the attorney-client privilege or the work product doctrine)

1 relating to activities at the Site or the implementation of this
2 Order, including but not limited to sampling analysis, chain of
3 custody records, manifests, drafts, trucking logs, reports,
4 correspondence or other documents or information related to the
5 Site.

6 D. For a minimum period of ten (10) years following EPA's
7 notification to Respondents that the Work has been completed,
8 Respondents shall preserve and retain all records and documents
9 in their possession or control, including the documents in the
10 possession or control of their contractors and agents, on and
11 after the effective date of this Order that relate in any manner
12 to the Site. At the conclusion of this document retention
13 period, Respondents shall notify the United States at least
14 ninety (90) calendar days prior to the destruction of any such
15 records or documents, and upon request by the United States,
16 Respondents shall deliver any such records or documents to EPA.

17 XXII. DELAY IN PERFORMANCE

18 A. Any delay in performance of this Order that, in EPA's
19 judgment, is not properly justified by Respondents shall be
20 considered a violation of this Order. Any delay in performance
21 of this Order shall not affect Respondents' obligations to fully
22 perform all obligations under the terms and conditions of this
23 Order.

24 B. Respondents shall notify EPA of any delay or anticipated
25 delay in performing any requirement of this Order. Such notifi-
26 cation shall be made by telephone to EPA's RPM within forty-eight
27 (48) hours after Respondents first knew or should have known that
28 a delay might occur. Respondents shall adopt all reasonable